

Akeem Henderson, et al. vs Willis-Knighton Medical Center  
Richard M. Sobel, M.D.

November

EXHIBIT

4

1                   UNITED STATES DISTRICT COURT  
2                   FOR THE WESTERN DISTRICT OF LOUISIANA  
3                   SHREVEPORT DIVISION

4                 AKEEM HENDERSON, et al.,

5                   Plaintiffs,                   CASE NUMBER

6                   vs.                           5 :19-CV-00163

7                 WILLIS-KNIGHTON MEDICAL CENTER  
8                   d/b/a Willis-Knighton South  
9                   Hospital,

10                  Defendant.

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11

12                  DEPOSITION OF

13                  RICHARD M. SOBEL, M.D.

14

15                  November 26, 2019

16                  10:02 a.m.

17

18

19

20                  105 Tivoli Gardens Road

21                  Peachtree City, Georgia 30269

22                  Thomas R. Brezina, CRR, RMR, CCR-B-2035

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1 up. "If the oxygen saturation is maintained at  
2 95 percent or greater, it may be discontinued."

3 Is that appropriate?

4 A Generally speaking it's appropriate.

5 It doesn't mean that you're going to want to  
6 discontinue it in all cases, but yeah. If it's not  
7 maintained at 95 percent, I think it's very clear  
8 that you should not be discontinuing it.

9 Q Does the child with a compromised  
10 respiratory system such as this patient, tend to  
11 have a lower O<sub>2</sub> saturation rate, perhaps, than a  
12 healthier child?

13 A It's possible.

14 Q Would you defer to the expertise of a  
15 pediatric physician, perhaps, on that?

16 A No.

17 Q Your next paragraph it looks like  
18 you're getting into the facts of the case, on  
19 February 10th at 0154. See where we're getting  
20 there? Before we get to that, what is a space lab  
21 monitor? It's not in your report. Do any of the  
22 ERs where you've worked in the past, have a space  
23 lab monitor?

24 A I've seen them, yes.

25 Q And have you used those? I mean, is

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1           Q         And how do you define respiratory  
2         distress in this situation?

3           A         Well, I think I defined it pretty well.  
4         This is a classic description of it. In the next  
5         paragraph on page 6, "Ailiyah presented in a, quote,  
6         tripod, unquote, position with frank respiratory  
7         distress. Per Susan Rainer, RN, at 2:05 a.m. she  
8         was, quote, distressed; quote, uncomfortable; and,  
9         quote, anxious."

10                  And then I went on to explain what --  
11         the clinical implications of the tripod position.  
12         It's the physical stance which may be the hallmark  
13         of children experiencing respiratory distress. It  
14         would be very typical, so this would be an obvious  
15         case of respiratory distress.

16           Q         And the tripod position was noted by  
17         the nurse, is that correct, in her 2:05 note?

18           A         I believe it was at 2:05.

19           Q         And we might go ahead and attach a copy  
20         of the record.

21                  MR. ROBISON: Sedric, are you there?

22                  MR. SEDRIC BANKS: Yes, please.

23                  MR. PUGH: These are the ones that I  
24         e-mailed to you.

25         BY MR. ROBISON:

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1           Q         We're still at the first paragraph when  
2       the patient first presented to the emergency room on  
3       February 10. It was 2:05 a.m., correct, and the  
4       patient was sitting in tripod position. Can you  
5       just explain for us what that is?

6           A         Sure. I can see arrival time is 1:54.  
7       The first citation of the tripod position is at  
8       2:05. Then there is another citation of it by the  
9       nurse at 2:11, and it looks like there is another  
10      citation at 2:22, which is associated with a  
11      correction and a crossout.

12                  The tripod position is essentially a  
13      three-point position where a person is supporting  
14      their thorax with their hands, so typically they  
15      would have their palms on a gurney. Could even be  
16      fists closed on the gurney. Those would be the two  
17      points of the triangle, and the third point would be  
18      the -- the pelvis or the patient's sitting on the  
19      gurney.

20                  So when they're in the tripod position,  
21      they're leaning forward to help the lungs become  
22      more freely mobile. Essentially take the -- the  
23      weight of the body off the lungs and enable  
24      accessory muscles to be a little bit more effective  
25      in moving the thorax.

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1                   The whole reason for that is  
2 bronchospasm and decreased air exchange, so this is  
3 the -- the signature of respiratory distress and the  
4 potential for respiratory failure, which is what she  
5 experienced when she died.

6                   Q         And that would be comparable to a  
7 person or an adult leaning forward? In other words,  
8 with your hands on your knees if you are out of  
9 breath? The same?

10          A         Could be. It could be. If you are in  
11 a chair, you could be tripododing in that manner,  
12 yes.

13          Q         You're referencing the 2:05 note from  
14 the nurse that indicated the patient currently  
15 sitting in tripod position, and I'm showing that is  
16 on page 769. Wait. I'm sorry. Seven --

17          A         Sixty-six, I think. 766 is what I see.

18          Q         That's on the nurse's notes; correct?

19          A         Yes.

20          Q         And it indicates there that the patient  
21 has strep throat and -- right?

22          A         Well, actually the records that you  
23 have submitted to me are a little bit different than  
24 the records that I have received. I must say I  
25 think I've received maybe three -- at least three

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1 should be hooked up to the monitor with continuous  
2 pulse oximetry. Should have continuous  
3 plethysmography, respiratory rate, the heart rate.  
4 Should be on supplemental O2.

5 This is a child that's got to be wired  
6 for sound, and IV is -- needs to be started.  
7 Intravenous steroids, magnesium, continuous  
8 bronchodilator therapy. The die is cast when this  
9 child arrives at the hospital. This is a child that  
10 needs to be admitted.

11 Q Under -- since we're looking at that,  
12 on the nurse's notes we're looking at vital  
13 statistics at 0323, what do those say? The pulse ox  
14 goes to 99 percent, correct, and 99 percent is good?

15 A No. This is the result, more likely  
16 than not, within reasonable medical certainty, if  
17 you would like to use the term, of the patient  
18 getting a neb treatment --

19 Q So she --

20 A -- with oxygen.

21 Q So the patient was treated and got  
22 better?

23 A So -- no. So this is the pulse  
24 oximetry that is measured on high-flow O2.

25 Q Where is that documented?

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1           A         So it's not a room air pulse oximetry.  
2           Q         And where is that part documented, that  
3         she is on oxygen at that point?

4           A         Well, look at time of the nebulizer  
5         treatment. So there is an albuterol nebulizer  
6         treatment that is begun at 3:16. That is given with  
7         high-flow O2.

8           Q         Is that appropriate? Is that an  
9         appropriate treatment?

10          A         Yes. Yes, it's appropriate. So if you  
11         note in the previous records, they document pulse  
12         oximetry on room air, especially when she went home.  
13         There was a pulse oximetry documented on room air.  
14         That's what you need. In this particular case the  
15         first pulse oximetry was on room air, so that is  
16         prior to the neb. The neb is given with oxygen, and  
17         the second pulse oximetry, there is no documentation  
18         of being on room air. That it's taken simultaneous  
19         with an albuterol treatment, which is given with  
20         oxygen, so --

21          Q         Before we get there, since we're  
22         looking at administered medication, which would be  
23         in the nurse's notes continued -- I think you're  
24         looking at that now?

25          A         On 767.

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1 To get to a safe discharge after this presentation?

2 I would have to say it's impossible.

3 Q Do you always repeat in your dictation,  
4 what is in the nurse's dictation?

5 A You have to address it.

6 Q But do you --

7 A I don't always repeat it, but if the  
8 nurse says something that is not accurate, then I  
9 address it and say why it isn't accurate and why --  
10 how it's different from what I found.

11 Q How long does a pediatric patient  
12 typically remain in a tripod position after being  
13 treated?

14 A Well, there is no way to assign a  
15 number to that. I mean, they may proceed from the  
16 tripod position to intubation and sedation, so that  
17 all could happen over the course of five minutes --  
18 the tripodding is over because the patient is on a  
19 ventilator -- or it may persist for, who knows;  
20 quite a while.

21 Your goal is to improve the patient's  
22 condition, get them out of the tripod position  
23 clearly because it's totally nonreassuring, and it  
24 is an indication of respiratory distress.

25 Q In your opinion on page 7 you're noting

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1   that it takes 20 to 30 minutes of washout time for a  
2   valid reading of O<sub>2</sub>. What does that mean?

3           A         Well, that means when you increase the  
4    FIO<sub>2</sub> or the percentage of oxygen in the air by  
5    giving supplemental oxygen, the oxygen replaces the  
6    nitrogen in the lungs, so essentially you're going  
7    to a different planet. Planet Earth is 21 percent.

8               If you put a child on 50 percent, it's  
9    like you're breathing an oxygen concentration of  
10   50 percent in the atmosphere, so that is going to  
11   artificially increase your oxygenation, and that is  
12   reflected in the pulse oximetry. That is why you  
13   have a pulse oximetry of 99 percent in this case:  
14   Because you've supplied supplemental oxygen. It has  
15   to wash out over time, so you start breathing the  
16   regular oxygen-level air. It's 21 percent. You got  
17   to breathe that for a while.

18               And the 50 percent oxygen atmosphere  
19    that you have delivered to the patient, the term is  
20    washout. It washes out, and the nitrogen comes back  
21    in and replaces the oxygen. After that happens and  
22    the supplemental oxygen is washed out, then you can  
23    repeat the pulse oximetry and see if it's stable,  
24    and that is what the policy or the protocol is  
25    reflecting: That you need some time for the washout

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1       of oxygen, the supplemental oxygen to wash out.

2           Q         Does it always -- are those times  
3        preset for a child that is four years old with  
4        compromised lungs from birth? The 20 to 30-minute  
5       time?

6           A         Just gave a rule of thumb. You can  
7        tell how fast it's deteriorating. You could maybe  
8        make the call in just a few minutes if it starts  
9        precipitously dropping. So what you don't have is  
10      verification of a -- of a room air oxygen that is  
11      greater than 95 percent. So there is no way you can  
12      determine that this child is not going to materially  
13      deteriorate. Tachycardic, breathing too fast, and  
14      you don't have a properly obtained pulse oximetry,  
15      and you don't have anybody that is reporting a lung  
16      exam.

17          Q         Does albuterol have the effect of  
18       increasing a patient's heart rate?

19          A         It can.

20          Q         It can, or it does? That is one of the  
21       listed --

22          A         It can. It can. It can actually go  
23       down, so it depends. If you are effective in  
24       treating the bronchospasm and the child is out of  
25       the tripod position and not using any accessory